

Ohio Laws, Statutes, etc.
H. B. No. 640
Mr. Snyder, of Pickaway

**The Emergency Act Passed
by the General Assembly
of Ohio to Enable Local
Authorities to Make the
Expenditures Rendered
Necessary by the Floods
of March and April, 1913**



HJ
9297.4
A4

The F. J. Heer Printing Co.

(House Bill No. 640.)

AN ACT

To authorize county commissioners, township trustees, boards of education, road commissioners, councils of municipal corporations and boards and officers thereof temporarily to repair, reconstruct and replace public property and public ways destroyed or injured by floods occurring in March and April, 1913; to authorize county commissioners and councils of municipal corporations to borrow and expend money for the purpose of cleansing public places and private grounds and buildings and removing therefrom any matter deposited therein by said flood which is inimical to the public health, safety or convenience; and to exempt proceedings for the permanent repair, reconstruction and replacement of such public property and public ways, and bonds issued and levies made for such purposes from certain requirements and limitations.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. The commissioners of any county or any road district, the board of education of any school district, the council of any municipal corporation or the trustee of any township are hereby empowered to authorize or enter into contracts temporarily to repair, reconstruct or replace any public property or public way which such commissioners, council or trustees are authorized to repair, reconstruct or construct under any general law of this state, if such public property or public way has been destroyed or injured by floods occurring in March and April, 1913, and if urgent public necessity exists for the making of such temporary repair, reconstruction or replacement; and to appropriate money, levy taxes, borrow money or issue bonds for such purposes. None of the provisions of the General Code requiring notice of any like repair or improvement to be given, imposing any limitation upon the time within which like contracts may be entered into or authorized; requiring competitive bidding in entering into like contracts; requiring the issuance by the auditor or clerk of a certificate that the money for such contracts is in the treasury or in process of collecting, unappropriated for any other purpose; requiring ordinances for like purposes to be published; requiring the submission of propositions to make like repairs or to reconstruct or construct like public improvements, property or way, or to expend money or levy taxes therefor to a vote of the electors; or subjecting any ordinance or resolution making any such contract or authorizing the same to be made, to a referendum of the electors, shall in any way apply to or govern proceedings for entering into or

authorizing such contracts, or appropriating money therefor. Directors of public service or safety in cities shall not be required to advertise for competitive bids in entering into any contract authorized by this section.

Provided, however, before any such contract for temporary repair, reconstruction or replacement involving an expenditure of more than five hundred dollars is authorized or entered into, such commissioners, board of council shall apply to the common pleas court of the county, or of any county in which any part of any such school district, road district or municipal corporation is located, or to any judge thereof. Such application shall set forth the nature of the repair, reconstruction or replacement proposed to be made, and the amount of money proposed to be expended upon each building, plant, sewer, aqueduct, reservoir, water mains (including water pipes connected therewith), apparatus, levee, embankment, street, alley, bridge, culvert, viaduct, or approach thereto, or to any of them, or upon each like public improvement or public way, and the necessity thereof. Such court or judge shall forthwith hear and finally determine such application, and if it is found that such public necessity exists, that the proposed repair, reconstruction or replacement is temporary in its nature and should be made forthwith, and that the amount of money proposed to be expended therefor is reasonable and justified by such necessity, said court or judge shall allow the application, and board of officers so applying shall be authorized to proceed in the manner provided in this section.

This section shall not be so construed as in any way to restrict or impair the authority of any of the officers mentioned therein under any of the general laws of the state, nor to authorize any of them to refuse to make the regular levies under the provisions of such laws for road and bridge funds.

SECTION 2. The council of any municipal corporation and the commissioners of any county are hereby empowered to borrow money in the manner specified in section 3 of this act, for the purpose of removing from the public places and private grounds or buildings in the corporation, or, as the case may be, in the county outside of municipal corporations therein, any obstruction or matter deposited therein by the floods mentioned in section 1 of this act, the presence of which is inimical to the public health, safety or convenience. The sum thus borrowed may be expended for the above mentioned purpose, in such manner and through such agencies as such council or commissioners, by resolution, may prescribe. Such resolution shall not be published nor be subject to a referendum. Contracts entered into by such council or commissioners, or by any board, officer or employee authorized by either of them to expend funds acquired under this section, shall not be subject to any provisions of the general law requiring competitive bidding. In the event that the power provided for in this section is exercised the local boards of health or health officers within and for the territory under the juris-

diction of such council or commissioners, as provided in this section, shall not have nor exercise any power or duty respecting the removal of such matter; but all the powers and duties of such local boards of health shall, for the purposes of this act, be vested in and imposed upon such council or commissioners and the agencies designated by them as provided in this section.

SECTION 3. For the purposes mentioned in sections 1 and 2 of this act, and for the permanent repair, reconstruction or replacement of public property or public ways destroyed or injured in the manner, and at the time described in section 1 of this act, any board of county commissioners, board of education, township trustees or council of any municipal corporation or the road commissioners of any road district may issue bonds or notes of the corporation, subdivision or district as needed. Resolutions or ordinances providing for the issuance of such notes or bonds shall not be published, shall not require the approval of the electors nor be subject to any referendum. Such resolution or ordinances shall state the facts bringing them within the terms of this act, so far as the emergency is concerned, shall require for their passage the votes of two-thirds of all members elected to such board or council and the recitals therein contained shall be conclusive evidence of the facts recited.

SECTION 4. Notes issued under authority of section 3 of this act shall be signed as bonds of the corporation, subdivision or district are signed; shall not run for a longer period than eighteen months; shall not bear a greater rate of interest than six per cent; and shall not be sold for less than par. Provided, however, that no greater amount of notes shall be issued under authority of said section 3 by the authorities of any sub-division, corporation or district than shall equal the aggregate of a tax at the rate of five-tenths of one-mill on each dollar of taxable property in such tax district as is listed and assessed for taxation in the year 1912.

SECTION 5. Bonds issued under authority of section 3 of this act shall be signed as other bonds of the corporation, subdivision or district are required by general law to be signed. They shall recite on their face the purpose for which they are issued and shall state therein that they are issued under authority of this act. They shall be issued in such denominations, at such rate of interest, not exceeding six per cent., and for such period of time as the authority issuing them may determine in the resolution or ordinance providing for their issue; provided, however, that no greater amount of such bonds shall be made payable in any one year than shall equal one-tenth of one per cent. of the total value of the property in such municipal corporation, sub-division or district, as listed and assessed for taxation in the year 1912. Such bonds may be sold at popular subscription or otherwise at not less than par. their sale shall be advertised by notice published once a week, for two

consecutive weeks in one newspaper published and of general circulation in the county, or in either county, in case the municipal corporation or district is located in more than one county. When sold at popular subscription they shall be distributed to bidders according to the rules prescribed for municipal bonds by section 3927 of the General Code. Bonds of a municipal corporation issued under authority of said section 3 of this act need not be first offered to the trustees or commissioners of the sinking fund or to the state liability board of awards as provided by general law. All other provisions of the general laws, not inconsistent with the provisions of this section, and with those of section 3 of this act shall apply to and govern the issuance and sale of such bonds.

SECTION 6. For the purpose of paying the principal and interest on notes issued under section 3 of this act, the authorities mentioned in said section, or those authorized by general law to levy taxes for any of the sub-divisions mentioned in section 1 of this act, may levy a tax irrespective of any of the limitations of section 5649-2 to 5640-5b of the General Code. In case such notes are funded by the issuance of funding bonds under the general laws, levies for interest and sinking fund purposes to provide for the retirement of such bonds shall not be included within any of the limitations of said sections. For the purpose of paying the interest on bonds issued under authority of said section 3 and providing a sinking fund for their final redemption at maturity, such authorities shall provide at the time such indebtedness is incurred, for levying and collecting, annually, by taxation, a sufficient amount, which amount shall be certified to the auditor of the proper county, who shall compute and ascertain the rate of levy necessary to provide therefor, and shall place the same upon the duplicate of the proper taxing district for the year or years for which it is certified, in addition to all other levies, and irrespective of any of the provisions or limitations of sections 5649-2 and 5649-5b, inclusive, of the General Code or any other limitations on tax rates at present in force. In no case shall funds produce by the levy authorized and required to be made by this section be used otherwise than for the purposes specified herein. In case money levied or borrowed under any of the provisions of this act is more than sufficient for the purposes for which it is levied or borrowed, the unexpended balance thereof shall be credited to the sinking fund provided for herein, and shall in no case be subject to transfer to any other fund; and when in such case, the final redemption of such bonds is provided for, the levy shall thereupon terminate. The commissioners of the county, the sinking fund trustees of the municipal corporation, the sinking fund commissioners of school districts in which such commissions are established, the board of education of any other school district and the clerk of the township shall administer the sinking fund provided for in this section, and shall have like power of investment thereof as is vested in trustees of the sinking fund of a municipal corporation by

the provisions of the general laws of this state. When in any year, through miscalculation or inadvertance the amount of the tax originally certified to the county auditor, as herein provided, is insufficient to provide for the payment of the interest and the maintenance of the sinking fund as required by this section, such trustees, commissioners or clerk shall compute and ascertain the necessary amount and shall certify the same to the county auditor, who shall compute and ascertain the rate of levy necessary to provide therefor, instead of the rate necessary to provide for the amount originally certified, and place the same upon the duplicate of the proper taxing district for such year. Whenever in any year, by reason of accretions to the sinking fund provided for herein, from any cause mentioned in this section, the amount originally certified is more than sufficient to provide for the final redemption of all outstanding bonds, and the payment of all interest due, such trustees, commissioners or clerk shall ascertain the amount necessary to provide for the final redemption of such bonds, and the payment of such interest, and shall certify such amount to the county auditor who shall ascertain the rate of levy necessary therefor, and shall place the same upon the duplicate of the proper taxing district for such year, instead of the rate necessary to provide for the amount originally certified. In such event no further levy shall be made for such purpose notwithstanding the requirements of the original certificate.

Except for the purposes mentioned in section 1 of this act and except when acting for such purposes under the general laws of the state and not under said section 1, none of the taxing authorities mentioned in this section shall borrow money or levy a tax for any of the purposes mentioned in this act under the general laws of the state unless such tax is necessary to provide for the payment of notes or bonds issued for such purposes and authorized prior to the passage of this act; but all moneys borrowed or taxes levied for the purpose of making repairs, re-construction and replacement of public property and public ways destroyed or injured by the floods mentioned in section 1 of this act shall be borrowed or levied under the provisions of this act.

SECTION 7. Bonds issued for any of the purposes specified in section three of this act, or for the purpose of funding notes issued for such purposes, shall not be counted in ascertaining any of the limitations of sections 3939 to 3954-1, inclusive, of the General Code.

SECTION 8. Proceedings under the general laws of this state for the permanent repair, reconstruction or replacement of public property and public ways, destroyed or injured in the manner described in section one of this act, shall not be subject to any provisions of such laws requiring the submission of the proposition to make such repair, reconstruction or replacement, or to expend money for such purposes to a vote of the electors, or subjecting any ordinance or resolution making or authorizing to be made any such contract to a referendum. Money

to be derived from bonds or notes issued under authority of section three of this act shall, when their issuance is authorized, and for the purpose of the certificate that money for the specific purpose is in the treasury, as required by the general law, be deemed in the treasury and in the appropriate fund.

SECTION 9. The term "public property", as used in this act means and embraces, among other things of like nature. Any public building, school house, publicly owned and operated public utility and all equipment, wires, poles, pipes, machinery and all other things used in connection therewith, any street or road machinery, fire and police apparatus, any public works of any kind, levee, embankment, ditch, drain, storm sewer, sanitary sewer, bridge, culvert, viaduct or approach to any of them, and, all and singular, every kind and description of public improvement, building, structure or article of public use which the authorities mentioned in this act are severally empowered by the laws of this state to make, construct, purchase or maintain and repair, save and excepting those which are herein defined to be public ways. The term "public ways" means and embraces streets, alleys, sidewalks, and public places and all things appurtenant thereto in municipal corporations, and the paving or other improvements heretofore constructed or made thereon, whether by assessment of abutting property or otherwise; and all public highways and roads, including those for the repair of which county commissioners are authorized to make emergency levies under sections 7419 and 5649-4, General Code. Provided, however, that in case any road or highway is repaired under authority of this act by any board of county commissioners, such commissioners shall not be authorized thereafter to levy for the repair of such road or highway under the provisions of section 7419, General Code, save for emergencies arising subsequently to the occurrence of the floods mentioned in section one of this act. The term "replacement" as used in this act includes the temporary establishment and operation of ferries and the widening, deepening or straightening of any river, creek or run which overflowed its banks and caused damage to public or private property at the time mentioned in section one of this act, as provided in sections 2428 and 3623 of the General Code, for the purpose of preventing the recurrence of destructive floods. In addition to the powers vested in municipal corporations by section 3677, General Code, such municipal corporations shall have special power to appropriate, enter upon and hold real estate within and without their corporate limits in furtherance of the above mentioned purpose. Provided, however, that proceedings for the permanent deepening, widening or straightening of a river, creek or run shall be subject to the approval of the electors or to a referendum as provided by general law.

SECTION 10. For the purpose of providing for the additional work imposed upon the engineering departments of counties and municipal-

ities by reason of the flood mentioned in section one of this act, the county commissioners of any county and the council of any municipal corporation are hereby empowered to authorize the employment of additional assistant or assistants to the county surveyor or city or village engineer, and to appropriate any money borrowed under the provisions of this act, or otherwise available, for the salary or compensation of such assistant or assistants.

SECTION 11. Bonds, the issuance of which has been provided for, prior to the passage of this act, for the purpose of permanently repairing, reconstructing or replacing public property damaged or destroyed by the flood mentioned in section one of this act shall not be counted in ascertaining any of the limitations of sections 3939 to 3954-1, inclusive, of the General Code. Interest and sinking fund levies to provide for the retirement of such bonds shall not be subject to any of the provisions or limitations of sections 5649-2 to 5649-5b, inclusive, of the General Code.

SECTION 12. This act is hereby declared to be an emergency law, necessary for the immediate preservation of the public peace, health and safety. Such necessity arises from the fact that by reason of the floods mentioned in section one of the this act many important channels of communication by travel in the state have been interrupted, impaired or destroyed; many public utilities, and other public property; the immediate restoration of which is necessary to the public health and safety have been destroyed or injured; means of preserving the public peace have been interfered with, and the situation in the flooded districts is such as cannot adequately be met by any proceedings under the general laws of this state. Therefore this act shall take effect from and after its passage and approval.

C. L. SWAIN,
Speaker of the House of Representatives.

HUGH L. NICHOLS,
President of the Senate.

Passed April 10, 1913.

Approved April 12, 1913.

JAMES M. COX,
Governor.

